

## § 228.03

### **§ 228.03 Identification of the authorized principal geographic procurement codes.**

(a) USAID has established principal geographic codes which are used by USAID in implementing instruments. This regulation establishes a presumptive authorized principal geographic code, Code 937, for procurement of commodities and services unless otherwise specified in the implementing instrument. Code 937 is defined as the United States, the cooperating/recipient country, and developing countries other than advanced developing countries, and excluding prohibited sources. USAID maintains a list of developing countries, advanced developing countries, and prohibited sources, which will be available in USAID's Automated Directives System, ADS 310.

(b) For purposes of procurements under the authority of the Development Fund for Africa, 22 U.S.C. 2293 *et seq.*; for any waivers authorized under Subpart D of this regulation; and if otherwise designated in an implementing instrument, the authorized principal geographic code shall be Code 935, any area or country but excluding prohibited sources.

(c) For purposes of procurements under the Support for Economic and Democratic Development of the Independent States of the Former Soviet Union, 22 U.S.C. 2295b, the authorized principal geographic codes are Code 937 and Code 110 (New Independent States).

(d) Additional principal geographic codes may be added to this section if authorized by Congress.

### **Subpart B—Conditions Governing Source and Nationality of Commodity and Service Procurement Transactions for USAID Financing**

#### **§ 228.10 Purpose.**

Sections 228.11 through 228.19 set forth the rules governing the eligible source of commodities and nationality of commodity and service suppliers for USAID Federal share financing under prime and subawards. These rules may be waived in accordance with the provisions in subpart D of this part.

## 22 CFR Ch. II (4–1–12 Edition)

### **§ 228.11 Source of commodities.**

The source of all commodities financed with Federal program funds appropriated under the Foreign Assistance Act of 1961, as amended, shall be Code 937 (unless Code 935 or 110 are designated in the implementing instrument). Procurements of agricultural commodities, motor vehicles and pharmaceuticals must also comply with the special procurement rules in § 228.19 of this part. Recipients and contractors are prohibited from engaging suppliers of commodities in an authorized country to import commodities from a country outside of the authorized principal geographic codes for the purposes of circumventing the requirements of this rule. Any violation of this prohibition will result in the disallowance by USAID of the cost of the procurement of the subject commodity.

### **§ 228.12 Nationality of suppliers of commodities and services.**

The suppliers of all commodities and services financed with federal program funds appropriated under the Foreign Assistance Act of 1961, as amended, shall:

(a) If an individual, except as provided in § 228.15, be a citizen or lawful permanent resident (or equivalent immigration status to live and work on a continuing basis) of a country in Code 937 (or other principal geographic procurement code designated in an implementing instrument),

(b) If an organization,

(1) Be incorporated or legally organized under the laws of a country in Code 937 (or other principal geographic procurement code designated in an implementing instrument);

(2) Must be operating as a going concern in a country in Code 937 (or other principal geographic procurement code designated in an implementing instrument), and either

(3) Be managed by a governing body, the majority of whom are citizens or lawful permanent residents (or equivalent immigration status to live and work on a continuing basis) of countries in Code 937 (or other principal geographic procurement code designated in an implementing instrument), or